

ORDINANCE NO. 896

AN ORDINANCE BANNING TOBACCO VENDING MACHINES
IN THE CITY OF TARRANT, ALABAMA

BE IT ORDAINED by the City Council of the City of Tarrant, Alabama as follows:

Section 1. PURPOSE

WHEREAS, the United States Surgeon General has long warned smokers that smoking tobacco, or any other weed or plant is hazardous to their health; and

WHEREAS, the National Center for Disease Control has concluded that more than 400,000 United States citizens die each year from tobacco-caused or related diseases and tobacco related illness cost businesses and individuals in the United States billions of dollars per year; and

WHEREAS, local news reports say that over 50 million Americans smoke and at least twenty-five percent (25%) of Alabama's population smokes; and

WHEREAS, the National Institute on Drug Abuse has found that nicotine in tobacco products is a powerful addictive drug and identifies nicotine addiction as the most widespread example of drug dependence in the United States; and

WHEREAS, ninety percent (90%) of adults who now smoke started smoking between the ages of nine and eighteen years; and

WHEREAS, three million children smoke daily in the United States, and over seventy-five percent (75%) buy their own cigarettes. Children currently have ready access to cigarettes and other tobacco products as a result of the availability of cigarette vending machines. Scientific studies have shown that minors are successful in buying tobacco products from cigarette vending machines in areas such as bars or cocktail lounges, where minors are not legally permitted to be present, area also readily utilized by minors to obtain tobacco products; and

WHEREAS, the United States Surgeon General has consistently favored the elimination of cigarette vending machines for public health reasons; and

WHEREAS, the American Cancer Society, American Lung Association, American Heart Association, American Medical Association, and Alabama Medical Association, representing the overwhelming view of recognized professional medical associations, support the elimination of cigarette vending machines for public health reasons; and

WHEREAS, no other dangerous product or drug, cancer-causing product or drug, or addictive product or drug is sold through vending machines. No other product or drug which minors are prohibited from purchasing is sold through vending machines.

NOW, THEREFORE, the compelling purpose and intent of this ordinance is to better serve public health, safety and welfare; to significantly reduce the ability of minors to illegally obtain tobacco products by banning tobacco and tobacco accessory vending machines, and to generally promote the health and welfare of all people in the community against health hazards and harmful effects of using addictive tobacco products.

Section 2. DEFINITIONS

For the purposes of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number, and words in the singular number including the plural number. The word "shall" is always mandatory and not merely directory.

- (1) "City" means the City of Tarrant, Alabama
- (2) "Employee" means any person who is employed by an employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a non-profit entity.
- (3) "Employer" means any person which employs one (1) or more persons.
- (4) "Minor" means an individual who is less than 19 years of age.
- (5) "Owner" shall mean and include the lessee, sublessee, assignee, part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, managing agent, officers of the corporation or other person having the right of ownership or possession or the right to sell, rent or lease any real property.
- (6) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (7) "Tobacco Accessories" means any cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette-rolling machines, and any other items designed primarily for the smoking or ingestion of tobacco products.
- (8) "Tobacco Products" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, smoking tobacco, and smokeless tobacco.
- (9) "Tobacco Vending Machines" includes any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins, paper bills, trade checks, slugs or credit cards.

Section 3. ENFORCEMENT

The provisions of this ordinance are enforceable by any duly authorized municipal code enforcement officer, police officer, or otherwise allowed by law.

Section 4. SALE OF CIGARETTES AND OTHER TOBACCO PRODUCTS FROM VENDING MACHINES PROHIBITED

- (a) No person shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance or use on his, her or its premises of any tobacco vending machine used or intended to be used for the purpose of selling or disposing of any tobacco products or tobacco accessories therefrom.
- (b) Any tobacco vending machine in use on the effective date of this ordinance shall be removed before December 31, 1999 (end of the business year)

Section 5. VIOLATIVE TOBACCO VENDING MACHINES

Any tobacco vending machine not removed from the premises or converted to a permissible use within the time limit set forth by Section 4(b) shall be deemed to be a public nuisance, and may be abated by the City in a civil action or other appropriate legal proceedings.

ORDINANCE NO. 23-2004

ORDINANCE REGULATING SMOKING IN FOOD AND BEVERAGE ESTABLISHMENTS REQUIRING THE DESIGNATION AS SMOKING OR NON-SMOKING.

WHEREAS, Tobacco Smoke is a leading public health problem in the city of Montgomery and throughout the United States; and

WHEREAS, the use of lighted smoking products inherently creates a health hazard of second hand smoke, which affects the public health, indoor environment, and the enjoyment of public places; and

WHEREAS, the harmful effects of Tobacco Smoke are not confined to smokers, but also cause severe discomfort and illness to nonsmokers, and

WHEREAS, Food and Beverage establishments have been shown to be locations of significant exposure to Tobacco Smoke by the citizens of the city of Montgomery, and

WHEREAS, the United States Surgeon General, the American Cancer Society, the American Lung Association, and the Alabama Department of Public Health have concluded that involuntary exposure to tobacco smoking is a cause of severe discomfort and disease, including lung cancer, in nonsmokers.

WHEREAS, the problem of second hand smoke in Food and Beverage Establishments is a continuing nuisance and the City Council finds it necessary to change the laws, including the City Code, to provide for better regulation of the use of lighted smoking products in such establishments requiring each Food and Beverage Establishment to choose either a totally SMOKE-FREE facility or a totally SMOKING facility.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONTGOMERY that ARTICLE V, SECTIONS 19-73 through 19-75 inclusive of the Code of the City of Montgomery be repealed in its entirety and the following Ordinance is hereby adopted as supplementary to ARTICLE V, SECTIONS 19-71 through 19-72 and 19-76 through 19-79; establishing regulations governing smoking in Food and Beverage Establishments, to read as follows:

Section 1. Definitions and Guidelines

Definitions

- a. Business Agent - An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.
- b. Employee - Any individual who performs services for an employer in return for wages or profit.
- c. Enclosed - A space, structure, facility or any portion thereof, bounded by walls (with or without windows) continuous from floor to ceiling served by heating, ventilation and air conditioning (HVAC) system(s) and through which air can circulate from one portion to another, including, but not limited to offices, rooms, hallways, customer service areas, foyers, common areas, waiting areas, waiting areas, restrooms, lounges, and eating areas.
- d. Food and/or Beverage Establishment - Any establishment which is required to have a business license from the City of Montgomery and which provides food and/or beverages under a permit from the Health Department and/or an "on premises" retail alcoholic beverage license from the Alabama Alcohol Beverage Control (ABC) Board.

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